

*Administration of Barack H. Obama, 2009*

**Proclamation 8394—To Modify Duty-Free Treatment Under the Generalized System of Preferences, and for Other Purposes**

*June 29, 2009*

*By the President of the United States of America*

*A Proclamation*

1. Pursuant to sections 501 and 503(a)(1)(A) of the Trade Act of 1974, as amended (the "1974 Act") (19 U.S.C. 2461 and 2463(a)(1)(A)), the President may designate articles as eligible for preferential tariff treatment under the Generalized System of Preferences (GSP).

2. Pursuant to section 503(c)(2)(A) of the 1974 Act (19 U.S.C. 2463(c)(2)(A)), beneficiary developing countries, except those designated as least-developed beneficiary developing countries or beneficiary sub-Saharan African countries as provided in section 503(c)(2)(D) of the 1974 Act (19 U.S.C. 2463(c)(2)(D)), are subject to competitive need limitations on the preferential treatment afforded under the GSP to eligible articles.

3. Section 503(c)(2)(F)(i) of the 1974 Act (19 U.S.C. 2463(c)(2)(F)(i)) provides that the President may disregard the competitive need limitation provided in section 503(c)(2)(A)(i)(II) of the 1974 Act (19 U.S.C. 2463(c)(2)(A)(i)(II)) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed an amount set forth in section 503(c)(2)(F)(ii) of the 1974 Act (19 U.S.C. 2463(c)(2)(F)(ii)).

4. Pursuant to section 503(d)(1) of the 1974 Act (19 U.S.C. 2463(d)(1)), the President may waive the application of the competitive need limitations in section 503(c)(2)(A) of the 1974 Act with respect to any eligible article from any beneficiary developing country if certain conditions are met.

5. Pursuant to section 503(d)(5) of the 1974 Act (19 U.S.C. 2463(d)(5)), any waiver granted under section 503(d) shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

6. Pursuant to section 503(c)(2)(E) of the 1974 Act (19 U.S.C. 2463(c)(2)(E)), section 503(c)(2)(A)(i)(II) shall not apply with respect to any eligible article if a like or directly competitive article was not produced in the United States on January 1, 1995.

7. Pursuant to sections 501 and 503(a)(1)(A) of the 1974 Act, and after receiving advice from the United States International Trade Commission (the "Commission") in accordance with section 503(e), I have determined to designate certain articles as eligible articles when imported from any beneficiary developing country.

8. Pursuant to section 503(c)(2)(A) of the 1974 Act, I have determined that in 2008 certain beneficiary developing countries exported eligible articles in quantities exceeding the applicable competitive need limitations, and I therefore terminate the duty-free treatment for such articles from such beneficiary developing countries.

9. Pursuant to section 503(c)(2)(F) of the 1974 Act, I have determined that the competitive need limitation provided in section 503(c)(2)(A)(i)(II) of the 1974 Act should be

disregarded with respect to certain eligible articles from certain beneficiary developing countries.

10. Pursuant to section 503(d)(1) of the 1974 Act, I have received the advice of the Commission on whether any industry in the United States is likely to be adversely affected by a waiver of the competitive need limitations provided in section 503(c)(2)(A), and I have determined, based on that advice and on the considerations described in sections 501 and 502(c) (19 U.S.C. 2462(c)) of the 1974 Act, and after giving great weight to the considerations in section 503(d)(2) of the 1974 Act (19 U.S.C. 2463(d)(2)), that such waivers are in the national economic interest of the United States. Accordingly, I have determined that the competitive need limitations of section 503(c)(2)(A) of the 1974 Act should be waived with respect to certain eligible articles from certain beneficiary developing countries.

11. Pursuant to section 503(d)(5) of the 1974 Act, I have determined that certain previously granted waivers of the competitive need limitations of section 503(c)(2)(A) of the 1974 Act are no longer warranted due to changed circumstances.

12. Pursuant to section 503(c)(2)(E) of the 1974 Act, I have determined that the limitation provided for in section 503(c)(2)(A)(i)(II) shall not apply with respect to subheading 7202.50.00 of the Harmonized Tariff Schedule of the United States (HTS) because no like or directly competitive article was produced in the United States on January 1, 1995.

13. Section 2004(d)(8)(A) of the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108-429, 118 Stat. 2434) amended subheading 9804.00.70 of the HTS to provide the tariff treatment for certain articles imported by or on the account of returning United States residents. I have determined that it is appropriate to make conforming changes to note 4 to subchapter IV of chapter 98 of the HTS to reflect that amendment.

14. On June 6, 2003, the United States and Chile entered into the United States-Chile Free Trade Agreement (USCFTA), which the Congress approved in section 101(a) of the United States-Chile Free Trade Agreement Implementation Act (the "USCFTA Act") (19 U.S.C. 3805 note). Proclamation 8334 of December 31, 2008, exercised authority under the USCFTA Act by modifying the HTS to provide for an accelerated schedule of duty elimination for specific originating goods of Chile. Proclamation 8334 inadvertently omitted modifications to the HTS necessary to implement the accelerated schedule. I have determined that technical corrections to the HTS are necessary to provide for the intended tariff treatment.

15. Presidential Proclamation 8332 of December 29, 2008, implemented the tariff treatment called for under certain provisions of the United States-Oman Free Trade Agreement (USOFTA). I have determined that a technical correction to the HTS is necessary to provide for the intended tariff treatment.

16. Section 604 of the 1974 Act (19 U.S.C. 2483) authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other Acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

*Now, Therefore, I, Barack Obama*, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to title V and section 604 of the 1974 Act, do proclaim that:

(1) In order to provide that one or more countries should no longer be treated as beneficiary developing countries with respect to one or more eligible articles for purposes of

the GSP, general note 4(d) to the HTS is modified as set forth in section A of Annex I to this proclamation.

(2) In order to provide that one or more countries should no longer be treated as beneficiary developing countries with respect to certain eligible articles for purposes of the GSP, the Rates of Duty 1-Special subcolumn for the corresponding HTS subheadings is modified as set forth in section B of Annex I to this proclamation.

(3) In order to designate certain articles as eligible articles for purposes of the GSP, the Rates of Duty 1-Special subcolumn for the corresponding HTS subheadings is modified as set forth in section C of Annex I to this proclamation.

(4) The competitive need limitation provided in section 503(c)(2)(A)(i)(II) of the 1974 Act is disregarded with respect to the eligible articles in the HTS subheadings and to the beneficiary developing countries listed in Annex II to this proclamation.

(5) A waiver of the application of section 503(c)(2)(A) of the 1974 Act shall apply to the eligible articles in the HTS subheadings and to the beneficiary developing countries set forth in Annex III to this proclamation.

(6) The waiver of the application of section 503(c)(2)(A) of the 1974 Act to the articles in the HTS subheading and to the beneficiary developing country listed in Annex IV to this proclamation is revoked.

(7) In order to make technical corrections necessary to provide the intended tariff treatment under the Miscellaneous Trade and Technical Corrections Act of 2004, the USCFTA, and the USOFTA, the HTS is modified as set forth in Annex V to this proclamation.

(8) The modifications to the HTS set forth in Annexes I, IV, and V to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the dates set forth in the respective annex.

(9) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

*In Witness Whereof*, I have hereunto set my hand this twenty-ninth day of June, in the year of our Lord two thousand nine, and of the Independence of the United States of America the two hundred and thirty-third.

BARACK OBAMA

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NOTE: This proclamation and its annexes were released by the Office of the Press Secretary on June 30, and they were published in the *Federal Register* on July 2.

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